

INTEROFFICE MEMO

DATE: June 8, 2022

TO: Commission on Statewide Law Enforcement Standards of Conduct and Discipline

FROM: Kristen Gilman

THROUGH: Fred Boss, Executive Director

SUBJECT: Recommendation to Adopt Records Management Policy

STAFF RECOMMENDATION:

Adopt Policy Number 2022-1, "Public Records Management Policy."

DISCUSSION:

Oregon law requires every state agency¹ to have a "written policy that sets forth the agency's use, retention and ownership of public records." ORS 192.018. Agencies are required to seek approval from the State Archivist prior to adopting a public records management policy.

We presented a draft public records management policy to the Commission on Statewide Law Enforcement Standards of Conduct and Discipline ("the Commission") at the May 4, 2022, meeting. We then met with Kristopher Stenson, State Records Manager, to discuss questions that were raised at the meeting. We made minor revisions to the policy and submitted it to the State Archivist. The State Archivist has approved the attached policy.

This policy provides that the Department of Justice ("DOJ") will be responsible for maintaining the Commission's public records throughout the life cycles of the records. If records are not sent to DOJ, Commissioners will be responsible for maintaining the records throughout the retention periods of the records, which may be longer than the Commissioners' terms of service.

We discussed with Mr. Stenson the concern some Commissioners raised regarding personal devices. He confirmed that the policy as written is consistent with the Oregon Public Records Law. If a personal device is used to create or store public records, the personal device could be subject to search. Such a search would be in the context of a public records request and there would be an opportunity to object to the request and seek appropriate court orders. If Commissioners and staff follow the policy by sending all public records to DOJ for archiving, we believe the likelihood that a personal device would be requested as part of a public records request is minimal.

¹ "State Agency" is defined as "any state officer, department, board or commission created by the Constitution or statutes of this state." ORS 192.005(6). The Commission is created by statute and is a state agency within the meaning of the Public Records Law. Furthermore, the Legislature expressly made the Public Records Law applicable to the Commission in its enabling legislation. ORS 243.812(6).